5160-3-80 **Health Care Isolation Centers.**

In accordance with section 14 of Amended Substitute House Bill 197 of the 133rd General Assembly, this emergency rule establishes health care isolation centers as COVID-19 community providers for the provision of services to individuals with an active or convalescent COVID-19 infection, or who have other health care needs and require quarantine following exposure to COVID-19 and who might otherwise seek care in a hospital or who cannot return home following a hospital stay due to their health care and isolation needs.

This rule is effective during the time period in which the governor of the state of Ohio declares a state of emergency due to COVID-19, when authorized by the director of the Ohio department of medicaid (ODM) and when federal authority authorizing medicaid reimbursement is present.

(A) Definitions

For purposes of this rule,

(1)) "Congregate settings" include nursing facilities, residential care facilities, assisted living facilities, and other designated facilities where individuals reside and receive services.

(2) "COVID-19 care needs" are the following levels of clinical care needed by an individual with an active or convalescent COVID-19 infection or who has other health care needs and requires quarantine following exposure to COVID-19:

(a) Individuals at the quarantine level have been exposed to COVID-19 but have no symptoms and do not have a probable or positive COVID-19 diagnosis. They require close monitoring.

(b) Individuals with "level one" care needs have minor symptoms and can generally recover safely at home. Individuals with level one care needs should only be admitted to an HCIC if their health care and isolation needs cannot be met due to circumstances related to their living situation.

(c) Individuals with "level two" care needs require oxygen or other respiratory treatment and must be monitored carefully for deterioration.

(d) Individuals with "level three" care needs do not require hospitalization but their health care needs may require care beyond a traditional nursing facility's capacity.

(e) Individuals with "level four" care needs are at level three and are deteriorating and require hospitalization. They require urgent assessment by medical personnel and may require intensive care.

(3) "COVID-19 community provider" is an HCIC that the director of ODM designates as such in accordance with Section 14 of Amended Substitute House Bill 197 of the 133rd General Assembly. Not all HCICs approved by the Ohio department of health (ODH) may be designated as a COVID-19 community provider.

(4) "COVID-19 level of care" is a level of care comparable to that required for admission to a nursing home, a COVID-19 diagnosis (tested or probable), and a physician order.

(5) "Health care facility" is a licensed or certified facility that provides medical care.

(6) "Health care isolation center (HCIC)" is a setting that provides a COVID-19 level of care or a quarantine level of care. The HCIC will serve both individuals post hospitalization who are not ready to return to their prior residence due to medical care and isolation or quarantine needs, and individuals who cannot receive needed care in their congregate setting but whose level of need does not rise to the level of hospitalization. HCICs should not be used for clinically stable individuals who can be treated safely where they live, including a nursing facility. HCICs will cease to exist when federal authority for medicaid reimbursement expires.

(7) "Quarantine level of care" requires a level of care comparable to that required for admission to a nursing home, exposure to COVID-19 which requires quarantine, and a physician order.

(B) HCIC general provider requirements

(1) Physically discrete space which requires a separate building or wing; and

(2) Approval by ODH, including but not limited to the following requirements:

(a) An HCIC will be approved only when needed in a regional public health hospital zone to meet the need for health care and isolation or quarantine services due to COVID-19. An HCIC must provide a letter signed by the facility and the regional public health hospital zone documenting the need for the isolation or quarantine capacity;

(b) The operator of an HCIC must have a demonstrated history of providing care at acceptable levels of quality and safety according to ODH standards.

Nursing facilities on the United States department of health and human services special focus facility list will not be considered for approval as an HCIC. The operator's compliance history will be considered.

(C) HCIC requirements regarding individuals

(1) HCICs must separate individuals with COVID-19 exposure from individuals with probable or positive COVID-19 diagnoses;

(2) Admission to HCIC isolation units must be limited to individuals who either have a positive COVID-19 test result or a probable COVID-19 diagnosis;

(3) HCICs may serve as a step-down setting after a hospital stay if necessary, to maintain isolation or quarantine needs and meet clinical needs;

(4) Individuals admitted to the HCIC must have the following:

(a) COVID-19 level of care or a quarantine level of care;

(i) Individuals with a quarantine level of care have a fourteen day maximum length of stay in the quarantine unit of an HCIC;

(ii) Within fourteen days, individuals with a quarantine level of care should either be discharged safely to home, including an appropriate congregate setting, or receive a probable or positive COVID-19 diagnosis and be transitioned to an isolation unit.

(b) Physician's order;

(c) Pre-admission screening and resident review (PASRR) unless a waiver or modification is granted by the Centers for Medicare and Medicaid Services (CMS).

(5) HCICs should not accept individuals who are clinically stable and who can safely be served in their home, including a congregate setting. The determination that an individual can be safely served at home or in a congregate setting will be made in accordance with guidelines issued by ODH;

(6) The operator of an HCIC must coordinate hospital transfers and discharge from the HCIC using the processes created in the regional public health hospital zone;

(7) HCICs are responsible for discharge planning, including the following:

(a) Ensuring discharge from the HCIC is clinically indicated and aligned with the individual's preferences of care setting. Individuals may be discharged to home settings or congregate settings such as nursing facilities. If the individuals were receiving services in a nursing facility when they became ill, they should return to the same nursing facility;

(b) Discharge from the HCIC requires a physician's order and must adhere to guidelines issued by ODH.

(8) Transfer of an individual from an HCIC to a hospital requires coordination with the regional public health zone triage official;

(9) Individuals treated at HCICs are not candidates for experimental or novel therapies, such as untested drugs or multi-patient ventilator use.

(D) HCIC staffing requirements

(1) HCICs must have dedicated full time infection control personnel available twenty-four hours per day, seven days per week;

(2) The staffing plan should not create staff shortages at other facilities or home and community-based services providers operated by the HCIC operator;

(3) Staff working in the HCIC can only work in the HCIC during the time the HCIC is open.

(4) If an HCIC has a quarantine unit and an isolation unit, separate staff must be dedicated to each unit.

(E) HCIC medication and supply requirements

(1) The HCIC must have access to all medications prescribed for their patients, including oxygen, bronchodilators and associated supplies;

(2) Primary responsibility for meeting personal protective equipment (PPE) requirements rests with the HCIC. Existing regional public health hospital zones are responsible for assisting the HCIC in meeting medication and supply needs, as appropriate;

(3) All personnel at HCICs should wear extended and re-use masks in accordance with state guidance;

(4) The HCIC should have adequate supplies of PPE in accordance with current procurement plans and protocols;

(a) If available, medical PPE for an isolation unit should include:

(i) N95 disposable respirators;

(ii) Goggles/face shields;

(iii) disposable gowns; and

(iv) disposable gloves.

(b) If available, medical PPE for a quarantine unit should include:

(i) Reusable cloth gowns; and

(ii) Medical/surgical masks.

(F) HCICs providing isolation services must meet all of the following requirements:

(1) An HCIC providing isolation services must be capable of meeting complex health care needs for individuals with respiratory illnesses, including in some instances, ventilator care;

(2) Have a separate entrance for the isolation unit;

(3) If one or more individuals are using ventilators, the HCIC must have an on-site respiratory therapist in the HCIC twenty-four hours per day, seven days per week;

(4) If providing ventilator care, the HCIC must meet physical plant, including back-up power sources, and staffing requirements necessary to provide services to individuals using ventilators;

(5) The HCIC must have access twenty-four hours per day, seven days per week, including via telehealth, to a pulmonologist or clinician who can help manage individuals with COVID-19.

(G) Oversight

(1)) HCICs must comply with the rules, guidelines, and protocols related to COVID-19 issued by CMS, the Centers for Disease Control (CDC), and ODH including the following:

(a) CMS 1135 waivers regarding bed capacity increases;

(b) Rules and guidelines promulgated by CMS for participation in the medicare and medicaid programs and additional conditions related to staffing, infection control, and respiratory care;

(c) Protocols related to COVID-19 for nursing facilities.

(2) ODH may approve a waiver of capacity limits on behalf of CMS to increase the number of individuals that may receive services in an HCIC, including relicensing rooms previously delicensed, converting single rooms to double rooms, and repurposing common space to create a multi-bed ward for the period of time the facility is operated as an HCIC;

(3) Any required ODH surveys will be completed before requests for approval as an HCIC are considered.

(4) Requests for approval will be considered in the following priority order:

(a) New healthcare facilities ready for survey;

(b) Healthcare facilities with a pending application;

(c) Healthcare operators or owners who have closed a nursing facility or intermediate care facility for individuals with intellectual disabilities (ICF/IID) or have a vacant building;

(d) Healthcare facilities with unused or closed floors or wings which can be dedicated to the HCIC only;

(e) Residential care facilities which were previously nursing homes and can easily be converted back with minimal interruption to current residents;

(f) Healthcare facilities who have recently decreased their capacity and are able to increase capacity with minimal movement of current residents;

(g) Healthcare operators or owners who can consolidate residents into one building to free up available space in another building;

(h) Other vacant buildings, hotels or college campuses.

(5) HCICs will comply with all nursing facility certification requirements and any additional requirements determined by ODH or ODM.

(6) All applicable certification requirements continue to apply with the exception of the thirty day notice prior to discharge.

(7)) Additional oversight of HCICs will be performed by ODH and includes but is not limited to, check-in phone calls, notification of admissions and discharges, and technical assistance.

(H) Reimbursement

(1) HCICs designated as COVID-19 community providers will be reimbursed for services provided to individuals eligible for full Medicaid benefits for dates of service on or after an ODH approved application using a tiered flat per diem rate system that matches reimbursement to the COVID care needs related to the COVID-19 diagnosis or exposure.

(2) Per diem rates are as follows:

(a) $250 per day for quarantine level;

(b) $300 per day for level one patients;

(c) $448 per day for level two patients;

(d) $820 per day for level three patients who are not using a ventilator;

(e) $984 per day for level three patients who are using a ventilator.

(3) If an individual admitted to an HCIC from a hospital qualifies for a medicare covered nursing facility stay, the HCIC must bill medicare as the primary payer. Notwithstanding rule 5160-3-64 of the Ohio Administrative Code, the operator of the HCIC may submit a claim for the difference between the medicare payment received and the appropriate HCIC per diem rate set forth in paragraph (H)(2) of this rule.

(4) Reimbursement for individuals enrolled in managed care plans will be determined by ODM and the managed care plans;

(5) Patient liability, if applicable, applies to HCIC payments;

(6) Franchise permit fees pursuant to Chapter 5168. of the Revised Code will apply as follows:

(a) Beds that are currently licensed nursing home beds will be included in the calculation of the franchise permit fee.

(b) Beds that are not currently licensed as skilled nursing facility (SNF) beds will be certified only as nursing facility beds for the duration of the HCIC program and will not be subject to the franchise permit fee.

(c) Beds that are currently licensed as SNF beds but not certified will be certified as nursing facility beds for the duration of the HCIC program and will remain subject to the franchise permit fee.

(d) Beds that are currently licensed and certified as SNF beds and are repurposed as HCIC beds for the duration of the HCIC program will remain subject to the franchise permit fee.

(e) Nursing facilities also have the ability to temporarily add beds to create surge capacity for non-COVID related needs in their communities. Franchise permit fees will be calculated for those beds in the same manner calculated for beds added for purposes of creating HCICs.

(7) ODM will identify any additional cost report accounts or schedules that are needed to appropriately capture the costs, revenues and utilization related to HCICs.

(8) If an individual receiving services in an HCIC is a resident of a nursing facility, the nursing facility can bill for leave days in accordance with section 5165.34 of the Revised Code. This includes the nursing facility where the individual resides when the HCIC is contained in the nursing facility of residence.

(9) Individuals receiving care in an HCIC that are not already eligible for medicaid may apply for medicaid coverage. The HCIC will not be reimbursed by the medicaid program for individuals who are not eligible for medicaid. Patient liability will be calculated based on the financial information provided by the individual through the attestation process.

(I) Closure

(1) An HCIC using certified beds added as surge capacity shall exist no longer than the federal authority allowing for temporary expansion bed capacity for the care and treatment of residents with COVID-19 expires. A certified bed increase granted to an HCIC shall be temporary. The beds shall not be sold or transferred between nursing facilities.

(2) HCICs are providers added to the medicaid program solely for purposes of meeting the quarantine and isolation needs of individuals infected by the COVID-19 virus.

(a) The HCIC nursing facility benefit shall cease to exist on the same date the federal authority for that benefit expires.

(b) The provider agreement may be terminated by the department of medicaid with thirty days notice for any reason. The decision of the department is final and not subject to appeal pursuant to Chapter 119. of the Revised Code.

(c) Any beds temporarily added to the provider agreement of a nursing facility for purposes of providing services as an HCIC may be removed from the provider agreement with thirty days notice for any reason. The decision of the department is final and not subject to appeal pursuant to Chapter 119. of the Revised Code.

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Certification

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